

REMARKS

The above amendments are made in response to the outstanding Final Office Action dated April 28, 2009. The Examiner's reconsideration is respectfully requested in view of the above amendments and the following remarks.

Claim 11 has been amended into independent form to include the previously-presented subject matter of claim 10 (herein cancelled). Claims 1-10 and 15-21 have been cancelled. No new matter has been introduced by the amendment; specifically, support for the amendment to claim 11 can be found at least in claim 10 (herein canceled).

Claims 11-14 are thus pending in the present application.

Claim Amendments

The Amendments here presented are made for the purposes of better defining the invention, rather than to overcome the rejections for patentability. No presumption should therefore attach that the claims have been narrowed over those earlier presented, or that subject matter or equivalents thereof to which the Applicant is entitled has been surrendered.

Claim Rejections Under 35 U.S.C. § 102

Claims 1 and 3-5 stand rejected under 35 U.S.C. § 102(b) as being allegedly anticipated by Morita et al. (U.S. Patent Application Publication No. 2002/0051098; hereinafter, "Morita").

Applicant notes that claims 1 and 3-5 have been cancelled, thereby rendering the rejection thereof moot.

Claim Rejections Under 35 U.S.C. §103

Rejection of Claim 2

Claim 2 stands rejected under 35 U.S.C. §103(a) as being allegedly unpatentable over Morita in view of Endo et al. (U.S. Patent No. 6,731,350; hereinafter, "Endo").

Applicant notes that claim 2 has been cancelled, thereby rendering the rejection thereof moot.

Rejection of Claims 6-9

Claims 6-9 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Morita.

Applicant notes that claims 6-9 have been cancelled, thereby rendering the rejection thereof moot.

Rejection of Claims 1-21

Claims 1-21 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Sensuke (JP 2001-252140; hereinafter, "Sensuke").

In order for an obviousness rejection to be proper, the Examiner must meet the burden of establishing that all elements of the invention are disclosed in the prior art; that the prior art relied upon, coupled with knowledge generally available in the art at the time of the invention, must contain some suggestion or incentive that would have motivated the skilled artisan to modify a reference or combined references; and that the proposed modification of the prior art must have had a reasonable expectation of success, determined from the vantage point of the skilled artisan at the time the invention was made. *In re Fine*, 5 U.S.P.Q.2d 1596, 1598 (Fed. Cir. 1988); *In re Wilson*, 165 U.S.P.Q. 494, 496 (C.C.P.A. 1970); *Amgen v. Chugai Pharmaceuticals Co.*, 927 U.S.P.Q.2d, 1016, 1023 (Fed. Cir. 1996). See MPEP 2143.

Establishing a prima facie case of obviousness requires that all elements of the invention be disclosed in the prior art. *In re Wilson*, 165 U.S.P.Q. 494, 496 (C.C.P.A. 1970). Further, even assuming that all elements of an invention are disclosed in the prior art, an Examiner cannot establish obviousness by locating references that describe various aspects of a patent applicant's invention without also providing evidence of the motivating force which would have impelled one skilled in the art to do what the patent applicant has done. *Ex parte Levengood*, 28 U.S.P.Q. 1300 (Bd. Pat. App. Int. 1993). The references, when viewed by themselves and not in retrospect, must suggest the invention. *In re Skill*, 187 U.S.P.Q. 481 (C.C.P.A. 1975).

Applicant notes that claims 1-10 and 15-21 have been cancelled, thereby rendering the rejection thereof moot.

Claim 11, which was directly dependent from Claim 10, has been amended into independent form and now includes only the subject matter previously included in claim 10 (as well as the original subject matter of claim 11). Thus, no new search is required by the Examiner.

Independent claim 11 includes, among other things, the following limitation:

- a first waterproofing packing inserted into the place where the first rotating part is fixed in the accommodating part, and formed with a slit through which the cables pass; and
- a second waterproofing packing inserted into the place where the second rotating part is fixed to the rear side of the monitor, and formed with a slit through which the cables pass

Thus, as noted above, the claimed invention includes a *first waterproofing packing inserted into the place where the first rotating part is fixed in the accommodating part, and formed with a slit through which the cables pass, and a second waterproofing packing inserted into the place where the second rotating part is fixed to the rear side of the monitor, and formed with a slit through which the cables pass.*

On pages 7-8 of the outstanding Office Action, the Examiner has stated, regarding the subject matter of as-amended independent claim 11, that Sensuke does not disclose “the cables are threaded through inside the connecting arms 77 and 75” or “the waterproofing packing as claimed.” However, the Examiner takes Official Notice that “hiding cables or wires inside the connecting arms are well known in the art because it provides a neat and safe connection in between two means,” and that “using waterproofing packing to protect an object is well known in the art because the packing protects the object from the elements.” Accordingly, the Examiner alleges that the abovementioned admitted deficiencies of Sensuke would have been obvious to one of ordinary skill in the art at the time that the invention was made. Applicant respectfully traverses for at least the following reasons.

First, Applicant respectfully disagrees with the Examiner’s taking of Official Notice and understanding of the claimed water proofing packing. Specifically, referring to MPEP 2144.03,

“[o]fficial notice unsupported by documentary evidence should only be taken by the examiner where the facts asserted to be well-known, or to be common knowledge in the art are capable of instant and unquestionable demonstration as being well-known” (emphasis added). Applicant concedes that in some cases “it might [be reasonable] for the examiner in a first Office action to take official notice...without the support of documentary evidence provided the facts so noticed are of notorious character and serve only to ‘fill in the gaps’ which might exist in the evidentiary showing made by the examiner to support a particular ground of rejection.” *In re Zurko*, 258 F.3d 1379, 1385, 59 USPQ2d 1693, 1697 (Fed. Cir. 2001) (emphasis added). However, this is not the case here. Specifically, in the instant Office Action, the Examiner is relying upon official notice, without any supporting documentary evidence, to support the existence of several distinct and explicitly recited elements of claim 11, e.g., the hollow cable passage of the connecting part and the first and second waterproofing packings, each having a slit, as well as the specific manners and relationships in which the above-listed components are arranged in the invention as disclosed in the claims. Thus, the above-listed limitations recited in claim 11 are clearly not “gap fillers,” but are instead separate, physical elements of the instant invention, explicitly disclosed in the claim.

Moreover, “assertions of...specific knowledge of the prior art must always be supported by citation to some reference work recognized as standard in the pertinent art” *In re Ahlert*, 424 F.2d at 1091, 165 USPQ at 420-21. See also *In re Grose*, 592 F.2d 1161, 1167-68, 201 USPQ 57, 63 (CCPA 1979). Even in the “rare occasion” in which Official Notice may be taken without specific reliance on documentary evidence, the Examiner is still required to explicitly set forth “the basis for such reasoning” and “must provide specific factual findings predicated on sound technical and scientific reasoning to support his or her conclusion of common knowledge.” See *Soli*, 317 F.2d at 946, 37 USPQ at 801; *Chevenard*, 139 F.2d at 713, 60 USPQ at 241 (emphasis added).

However, the only cited basis for taking official notice in the instant Office Action is that “connecting cables could be made out of sight and hence a neater connection” and that “packing protects the object from the elements.” This basis is lacking in any of the requisite citation to some reference work recognized as standard in the pertinent art and specific factual findings, and is therefore no more than a bald assertion.

Thus, Applicant respectfully submits that the Examiner’s relying upon Official Notice is

improper, and thereby respectfully traverses.

Second, Applicant respectfully notes that, even assuming (strictly for purposes of argument) that the Examiner's taking Official Notice is proper and that that "hiding cables or wires" and/or "using waterproofing packing to protect an object" are well known, these allegedly obvious modifications to Sensuke still do not cure the admitted deficiencies of Sensuke in view of the present invention as claimed. Specifically, as illustrated in paragraphs 70-71 and Figs. 7 and 8 of the instant application, the claimed first waterproofing packing is specifically inserted into the place where the first rotating part is fixed in the accommodating part, while the second waterproofing packing is specifically inserted into the place where the second rotating part is fixed to the rear side of the monitor. Moreover, the first and second waterproofing packing are especially designed to have a slit through which the cables pass. Accordingly, the first and second cables effectively prevent water or moisture from permeating into the multi-functional television set along the cable passageways, such as in a kitchen or bathroom environment, for example.

For at least all of the reasons discussed above, it is therefore respectfully submitted that the claimed first and second waterproofing packings would not be obvious to one of ordinary skill in the art at the time that the invention was made.

Thus, Applicant respectfully submits that Sensuke, in view of any alleged common knowledge in the art at the time the invention was made, fails to teach or suggest "a hollow cable passage formed therein through which the cables pass" or "a first waterproofing packing inserted into the place where the first rotating part is fixed in the accommodating part, and formed with a slit through which the cables pass; and a second waterproofing packing inserted into the place where the second rotating part is fixed to the rear side of the monitor, and formed with a slit through which the cables pass," as recited in amended independent claim 11.

It is therefore submitted that Sensuke, either alone or in combination with common knowledge in the art, fails to teach or suggest the subject matter claimed in the amended claim 11, and thus *no suggestion or motivation* exists in the cited references. Accordingly, *prime facie* obviousness does not exist regarding the subject matter claimed in claim 11 with respect to the cited references. Applicant respectfully submits that the amended claim 11 is now allowable.

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Claims 12-14 are also believed to be allowable, by virtue of their direct or indirect dependency from claim 11.

Applicant therefore respectfully requests that the Examiner withdraw the rejection of claims 11-14 under 35 U.S.C. §103(a).

Conclusion

In view of the foregoing, it is respectfully submitted that the instant application is in condition for allowance. Reconsideration and subsequent allowance of this application are courteously requested.

If there are any charges due with respect to this Amendment or otherwise, please charge them to Deposit Account No. 06-1130 maintained by Applicant's attorneys.

The Examiner is invited to contact Applicant's Attorneys at the below-listed telephone number with any questions or comments regarding this Response or otherwise concerning the present application.

Respectfully submitted,

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